

### **REMARKS**

Reconsideration of the application in view of the above amendments and following remarks is respectfully requested.

#### **Status of the Claims**

Claims 1-11 were rejected.

Claims 1-11 have been amended to adapt the claims to better conform to U.S. practice.

No new matter has been added.

Claims 1-11 are now pending.

#### **Objection to the Specification**

The Specification is objected to. Specifically, the Abstract is objected to for including legal phraseology. In response, the Abstract has been amended to remove legal phraseology and to adapt the Abstract to better conform to U.S. practice. No new matter has been added.

Withdrawal of the objection to the Specification is respectfully requested.

#### **Rejection Under 35 U.S.C. §102**

Claims 1-11 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,340,209 to Kolbe et al. ("Kolbe").

Independent claim 1 recites a mounting arrangement for internal dividing elements of refrigerators and freezers including a rail having an upper track and a lower track, wherein the lower track includes a stop device that cooperates with a lock of a retaining surface of the dividing element that is disposed below the lower track and is "slidingly seated against the lower track" in an operating position. It is respectfully submitted that Kolbe does not suggest or disclose at least these features of the presently claimed invention.

Kolbe describes a refrigerator slide-out shelf assembly having U-shaped supports 23 and 24 mounted onto ladder rails 22. *See* Kolbe, col. 3, lines 4-15. Each support includes an upper wall 28 that interacts with the shelf. *See* Kolbe, Figures 5, 6, and 9. The described assembly further

includes a latch member 44 that interacts with the support 23, and inwardly interacts with recess 63 and slot 66 of the shelf rim 34 to provide the desired operation. *See* Kolbe, col. 4, lines 5-8; col. 4 line 53 to col. 5, line 17.

In contrast, the presently claimed invention includes two tracks, including a lower track having a stop device. Further, the presently claimed invention includes a retaining surface that includes a lock that is disposed below the lower track and slidingly seats against the lower track. This orientation and operation is shown, for example, in Figure 5 of the Specification. Kolbe does not teach two rails, but merely shows a single U-shaped support having an upper wall 28 that interacts with the shelf. Further, Kolbe describes an entirely separate component, latch member 44, to control the operation of the shelf in an “inward” interaction with recess 63 and slot 66, and not a “slidingly” seating action against a lower track from below.

Further, although the above arguments compared the structure of the supports 23 of Kolbe to the rails of the presently claimed invention, it is noted that the Examiner asserted in the Office Action that the ladder rails 22 of Kolbe are comparable to the rails of the presently claimed invention. Applicants respectfully disagree. The ladder rails 22 are merely structure onto which supports 23 and 24 are mounted. The ladder rails 22 do not slidingly seat an internal dividing element, and do not include upper and lower tracks, as recited in independent claim 1. Further, each ladder rail is not mounted on an individual lateral wall, both are mounted to the same rear wall.

Because Kolbe does not teach each and every element of independent claim 1, Kolbe cannot anticipate claim 1. Accordingly, withdrawal of the rejection of claim 1 under 35 U.S.C. §102(b) based on Kolbe is respectfully requested.

Claims 2-11 depend from claim 1. By virtue of their dependency and for at least the reasons described above, Kolbe cannot anticipate claims 2-11.

Withdrawal of the rejection of claims 2-11 under 35 U.S.C. §102(b) based on Kolbe is respectfully requested.

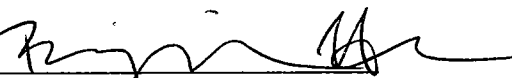
**CONCLUSION**

Each and every point raised in the Office Action dated September 26, 2008 has been addressed on the basis of the foregoing remarks. In view of the foregoing, it is believed that each of the pending claims is in condition for allowance, and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 24, 2008

Respectfully submitted,

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